IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

CENTRAL EXCISE APPEAL NO.213 OF 2006

The Commissioner of Central
Excise & Customs, Nashik .. Appellant.
Versus
Shri D.R. Gade .. Respondent.

Mr.A.S. Rao with Mrs.S.V. Bharucha for the appellant.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 26TH JULY, 2007.

P.C. :

1. On the question of law as formulated in para 4(a), we find that on a consideration of Section 76 and 80, there is discretion in the authority of not imposing penalty. In the instant case, the Tribunal considering the facts on record has recorded a finding that the enhancement of penalty is arbitrary. This was within its discretion.

2. This is purely an exercise in discretion based on a finding of fact which it was empowered. No question of law, therefore, arises.

3. The appeal is dismissed with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)